

2023 No. 1312

RETAINED EU LAW REFORM, NORTHERN IRELAND
PENSIONS, NORTHERN IRELAND

**The Pensions (Pension Protection Fund Compensation)
(Northern Ireland) Regulations 2023**

Made - - - - *4th December 2023*

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 11(1), 13(2), (3) and (7) and 20(1)(b) of the Retained EU Law (Revocation and Reform) Act 2023(a) (“the 2023 Act”).

The Secretary of State is a relevant national authority(b) for the purposes of section 11(1) of the 2023 Act.

A draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament in accordance with paragraph 5(1) of Schedule 5 to the 2023 Act.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Pensions (Pension Protection Fund Compensation) (Northern Ireland) Regulations 2023.

(2) These Regulations come into force immediately before the end of 2023.

(3) These Regulations extend to Northern Ireland only.

Amendment of Article 146 of the Pensions (Northern Ireland) Order 2005

2. In Article 146(1) of the Pensions (Northern Ireland) Order 2005(c) (the pension compensation provisions), omit sub-paragraph (c) (but not the “and” at the end).

Amendment of Schedule 6 to the Pensions (Northern Ireland) Order 2005

3.—(1) Schedule 6 to the Pensions (Northern Ireland) Order 2005 (pension compensation provisions) is amended as follows.

(2) In paragraph 3(10)—

(a) before head (a) insert—

(a) 2023 c. 28.

(b) “Relevant national authority” is defined in section 21(1) of the 2023 Act.

(c) S.I. 2005/255 (N.I. 1).

- “(za) paragraph 22A (calculation of compensation on and after 1st January 2024),”;
- (b) omit head (a) (but not the “and” at the end).
- (3) In paragraph 5(8) before head (a) insert—
- “(za) paragraph 22A (calculation of compensation on and after 1st January 2024),”.
- (4) For paragraph 7(6) substitute—
- “(6) This paragraph is subject to—
- (a) paragraph 22A (calculation of compensation on and after 1st January 2024), and
- (b) paragraph 30 (power of Department to change percentage rates by order).”.
- (5) In paragraph 8(8) after head (a) insert—
- “(aa) paragraph 22A (calculation of compensation on and after 1st January 2024),”.
- (6) In paragraph 10(8)—
- (a) at the end of head (a) omit the “and”;
- (b) after head (a) insert—
- “(aa) paragraph 22A (calculation of compensation on and after 1st January 2024), and”
- (7) In paragraph 11(8)(a)—
- (a) after head (a) insert—
- “(aa) paragraph 22A (calculation of compensation on and after 1st January 2024),”;
- (b) omit head (c) (but not the “and” at the end).
- (8) In paragraph 14(9)(b)—
- (a) after head (a) insert—
- “(aza) paragraph 22A (calculation of compensation on and after 1st January 2024),”;
- (b) omit head (b) (but not the “and” at the end).
- (9) In paragraph 15(6)(c)—
- (a) before head (a) insert—
- “(za) paragraph 22A (calculation of compensation on and after 1st January 2024),”;
- (b) omit head (b) (but not the “and” at the end).
- (10) In paragraph 19(8)(d)—
- (a) before head (za) insert—
- “(zza) paragraph 22A (calculation of compensation on and after 1st January 2024),”;
- (b) omit head (a) (but not the “and” at the end).
- (11) For paragraph 20(6) substitute—
- “(6) This paragraph is subject to—
- (a) paragraph 22A (calculation of compensation on and after 1st January 2024), and
- (b) paragraph 30 (power of Department to change percentage rates by order).”.
- (12) For paragraph 22(4) substitute—
- “(4) This paragraph is subject to—
- (a) paragraph 22A (calculation of compensation on and after 1st January 2024), and
- (b) paragraph 30 (power of Department to change percentage rates by order).”.

(a) Paragraph 11(8) was amended by paragraph 4 of Schedule 6 to the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.)).

(b) Paragraph 14(9) was amended by paragraph 6 of Schedule 6 to the Pensions (No. 2) Act (Northern Ireland) 2008.

(c) Paragraph 15(6) was amended by paragraph 7 of Schedule 6 to the Pensions (No. 2) Act (Northern Ireland) 2008.

(d) Paragraph 19(8) was amended by paragraph 9 of Schedule 6 to the Pensions (No. 2) Act (Northern Ireland) 2008.

(13) After paragraph 22 insert—

“Calculation of compensation on and after 1st January 2024

22A.—(1) This paragraph applies where—

- (a) the assessment date falls on or after 1st January 2024, and
- (b) there is a person (“P”) who, at the beginning of the assessment period in question, is or may become entitled to payment of compensation in accordance with paragraph 3, 5, 7, 8, 10, 11, 14, 15, 19, 20 or 22 in respect of the scheme.

(2) Sub-paragraph (3) applies where, but for that sub-paragraph, the value as at the beginning of the assessment period of P’s compensation would be less than 50% of the benefits value.

(3) Where this sub-paragraph applies, the amounts of P’s compensation are to be adjusted in accordance with guidance issued by the Board so as to secure that the value as at the beginning of the assessment period of that compensation is increased to an amount equal to 50% of the benefits value.

(4) In this paragraph—

“P’s compensation” means the compensation which is or may become payable to or in respect of P in accordance with the relevant compensation provisions in respect of the scheme;

“the benefits value” means the value of the benefits which have accrued to or in respect of P under the admissible rules of the scheme immediately before the assessment date;

“the relevant compensation provisions” means any of paragraphs 3 to 20, 22 and 23.

(5) The following are to be determined in accordance with guidance issued by the Board—

- (a) the value of P’s compensation;
- (b) the benefits value.

(6) In this paragraph—

(a) a reference to benefits which have accrued to or in respect of a person under the admissible rules of the scheme does not include a reference to such of those benefits as are attributable (directly or indirectly) to a pension credit;

(b) a reference to compensation which is or may become payable to or in respect of a person in accordance with a provision of this Schedule does not include a reference to so much of that compensation as is attributable (directly or indirectly) to a pension credit.”.

(14) In paragraph 24, omit sub-paragraph (3).

(15) Omit paragraphs 26, 26A and 27(a).

(16) In paragraph 28, omit sub-paragraph (4).

Amendment of Schedule 4 to the Pensions (No. 2) Act (Northern Ireland) 2008

4. In paragraph 18 of Schedule 4 to the Pensions (No. 2) Act (Northern Ireland) 2008(b) (pension compensation payable on discharge of pension compensation credit), omit sub-paragraph (2).

(a) There have been amendments to paragraphs 26 and 27; paragraph 26A was inserted by paragraph 3 of Schedule 20 to the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)).

(b) 2008 c. 13 (N.I.). There have been amendments to paragraph 18, but none are relevant.

Amendment of Schedule 4 to the Pensions Act (Northern Ireland) 2012

5. In paragraph 23 of Schedule 4 to the Pensions Act (Northern Ireland) 2012(a) (Pension Protection Fund), omit sub-paragraph (9).

Amendment of the Pensions Act (Northern Ireland) 2015

6. In the Pensions Act (Northern Ireland) 2015(b)—

- (a) omit section 49 (Pension Protection Fund: compensation cap to apply separately to certain benefits);
- (b) in Schedule 20 (Pension Protection Fund: increased compensation cap for long service), omit paragraphs 2, 3 and 5 to 22.

Signed by authority of the Secretary of State for Work and Pensions

Paul Maynard

Parliamentary Under Secretary of State
Department for Work and Pensions

4th December 2023

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Schedule 6 to the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) which relates to the payment of compensation by the Board of the Pension Protection Fund (“the Board”) in certain circumstances where an occupational pension scheme is unable to meet its obligations to provide benefits to its members.

These Regulations codify, to a limited extent, the effects of Article 8 of Council Directive 2008/94/EC of the European Parliament and of the Council on the protection of employees in the event of the insolvency of their employer (OJ L 283, 28.10.2008 p. 36-42). Those effects form part of domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018 (c. 16), and they were the subject of the decisions in *C-17/17 Hampshire v Board of the Pension Protection Fund* [2019] ICR 327 and *Hughes and others v The Board of the Pension Protection Fund* [2020] EWHC 1598 (Admin).

These Regulations amend Schedule 6 to ensure that the compensation payable to a person in certain cases where the Board has assumed responsibility for an occupational pension scheme (“the original scheme”) does not fall below the level of compensation that would be payable if the value of compensation payable under Schedule 6 was 50% of the value of benefits that the person would have been entitled to under the rules of the original scheme.

This amendment affects Articles 115, 122, 127, 140, 146 and 162 of the Pensions (Northern Ireland) Order 2005 to the extent they operate by reference to the value of compensation payable under Schedule 6.

These Regulations also amend Schedule 6 by omitting paragraphs 26, 26A and 27, which impose a cap on the level of compensation payable under certain provisions of the Schedule.

These Regulations make consequential amendments to the Pensions (Northern Ireland) Order 2005, the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.)), the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.)) and the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

(a) 2012 c. 3 (N.I.).

(b) 2015 c. 5 (N.I.).

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